IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11407 of 2004
WITH
CIVIL APPLICATION No. 1788 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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CHANDUBHAI AMARSING RATHOD - Petitioner
Versus
ADESANG BABARBHAI CHAUHAN & 2 - Respondents

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Appearance :
MR MTM HAKIM for Petitioners.
MR SP MAJMUDAR for Respondents : 1 - 2.
None for Respondent(s) : 3,
RULE SERVED for Respondent(s) : 3.2.1,3.2.2

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CORAM :	HONOURABLE MR.JUSTICE K.A.PUJ

Date : 15/06/2007
COMMON ORAL JUDGMENT

1. The petitioners have filed this petition under Article 227 of the Constitution of India praying for quashing and setting aside the impugned order dated 02.08.2004 passed by the learned Joint Civil Judge (J.D.), Savli, Vadodara below an application Exh. 117 in Regular Civil Suit No. 44 of 1983.

2. This Court has issued rule on 18.03.2005 and notice as to interim relief was issued. The petitioners have thereafter moved Civil Application No.1788 of 2006 and in that application, the Court has passed an order on 13.02.2006 and order of status-quo was ordered to be continued till 27.02.20076. Thereafter on 16.03.2006, Registry was directed to list the main matter for final hearing and interim relief was ordered to be continued.

3. The brief facts giving rise to the present petition are that the petitioners – original defendants have challenged the impugned order on the ground of pending proceedings under the Bombay Tenancy and Agricultural Land

Ceiling Act, which came to be rejected. It is the say of the petitioner that the said order is violative of rights of the petitioners enshrined under the Constitution of India under Articles 14, 19 and 21. It is also the say of the petitioners that the suit was filed by the respondents for specific performance, declaration and injunction with respect to the lands being Survey Nos. 2089 and 2090. The issues came to be framed below Exh.36 on 21.08.1985. The petitioners tendered the written statements on 02.12.1985. The issue No. 4 A came to be added on 03.12.1985. The order dated 10.01.1986 passed in Reference Letter No. 63/1986 staying the proceedings of the Regular Civil Suit No. 44/1983 awaiting the decision of the Tenancy Court. Vide order dated 04.02.2004, the Tenancy Court came to the conclusion that the petitioners – defendants had failed to prove their case of tenants, in the said lands, hence they were not declared as tenants under Section 4 of the Tenancy Act. The petitioners preferred Statutory Appeal against the decision of the Tenancy Court, Vadodara before the Collector, Vadodara. The petitioners moved application below Exh. 117 on 24.06.2004 for staying the proceedings of the Regular Civil Suit No. 44 of 1983 as

the statutory appeal filed by the petitioners was pending.

4. It is in the above background of the matter, the present petition is filed.

5. Mr. S. P. Majmudar, learned advocate appearing for the respondent has pointed out that against the order of the Tenancy Court, appeal preferred by the petitioners before the Collector was disposed of on 21.09.2006 and Revision preferred against the said order of the Collector before the Gujarat Revenue Tribunal, Ahmedabad is also rejected vide order dated 12.02.2007. He has placed on record copy of the order passed by the Tribunal. Since the Revision is already rejected by the Tribunal and present petition is filed against the order passed below an application Exh.117 by the learned Civil Judge (J.D.), Savli and this Court has granted order of status-quo only because of the fact that appeal was pending before the Collector, the present petition has become infructuous in view of the rejection of the revision application. Mr. M.S.M. Hakim, learned advocate appearing for Mr. M.T.M. Hakim for the petitioners could not controvert the fact regarding dismissal of appeal by the Collector as

well as revision by the Tribunal.

6. In the above view of the matter, the present petition is disposed of as having become infructuous. Rule discharged without any order as to costs. Interim relief stands vacated.

7. In view of the disposal of main petition, Civil Application No. 1788 of 2006 does not survive and it is accordingly disposed of.

[K. A. PUJ, J.]

Savariya